

Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VANESSA SIMMONDS,

Plaintiff,

and

GEEKNET, INC. (f/k/a VA LINUX  
SYSTEMS, INC.), a Delaware corporation,

Nominal Plaintiff

v.

CREDIT SUISSE SECURITIES (USA) LLC, a  
Delaware limited liability company,

Defendant

NO. 2:12-cv-01937 JLR

DECLARATION OF  
DAVID M. SIMMONDS

David M. Simmonds declares as follows:

1. ***Identity and Competency.*** I am an attorney with the law firm of Gordon Tilden Thomas & Cordell, LLP. Along with the Keller Rohrbach law firm, we represent plaintiff Vanessa Simmonds.
2. ***John Roos.*** Attached as **Exhibit A** is a true and accurate copy of the December 7, 2009 article quoted in Plaintiff's Opposition to Defendant's Rule 41(D) Motion for Costs and

DECLARATION OF DAVID SIMMONDS- 1  
No. 2:12-cv-01937 JLR

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1 Stay, pertaining to the nomination of former Wilson Sonsini CEO John Roos as U.S.  
2  
3 Ambassador to Japan. The article is entitled, “Inside WSGR’s Investment Fund,” and is based  
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5 on an investigative article authored by Zusha Ellinson, which is also dated December 7, 2009.  
6  
7 Neither I nor any of my colleagues working on this case was aware, until 2012, of Mr. Roos, his  
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9 nomination as U.S. Ambassador to Japan, or (most importantly) any connection between an  
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11 ambassadorial nomination and the subject matter of this case.  
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13 3. ***Recent Shift of Research to VC Involvement.*** Over the last several years, we  
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15 have monitored sources of information relating to the subject matter of this case. We have found  
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17 that the most active and continuing source of such information has been academic papers  
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19 addressing the “whats,” “hows,” and “whys” of the 1999-2000-era IPO bubble phenomenon. In  
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21 2011, we began to notice a marked shift in these academic papers away from the previously  
22  
23 accepted belief of an underpricing collusion between underwriters and executive decision-  
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25 makers of a particular issuer, towards a non-issuer-specific coordination among a select group of  
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27 high-profile underwriters and prominent venture capital firms. These articles also shifted the  
28  
29 focus of our ongoing investigation.  
30

31 4. ***Wilson Sonsini.*** In the course of our investigation, a common link between the  
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33 underwriters and venture capital firms involved in those IPOs with the largest spreads between  
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35 the IPO price and immediate aftermarket price became apparent to us: the law firm of Wilson  
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37 Sonsini Goodrich & Rosati. In 2012, this led us to information stemming from Mr. Roos’  
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39 disclosures and investigative articles based thereon, including key information derived from  
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41 interviews with current and former members of Wilson Sonsini who participated in the 1999-  
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43 2000-era investment fund.  
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45

5. ***Discovery of Factual Elements of This Case.*** While no one academic article, disclosure, interview or news story contained the essential facts on which this action is based, each provided previously unknown data points that put a different focus and perspective on our investigation. This, in turn, led to our discovery of the essential factual elements of this action in 2012, including evidence of close collaboration among underwriters and venture capital firms to develop and conceal early exit strategies in contravention of reported lock-up agreements.

6. ***Basis of This Case Was Not Available at Time We Commenced the Prior Case.*** None of these aforementioned factual elements formed the foundation of the prior suit. Nor could it have. At the time we commenced the prior case, we lacked the key data points on which the present action is based notwithstanding the extensive investigation we conducted prior to our filing of the prior suit.

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed this 22nd day of January, 2013, at Seattle, Washington.

s/David M. Simmonds  
David M. Simmonds, WSBA #6994

**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following.

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*s/Mark Wilner*

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